

MARKINGS TO SHOW CHANGES TO CLAIM 19

19(amended). In the method of playing a Poker game on a gaming machine that stores signal representations of images of fifty two cards of a standard deck of cards, comprising the steps of:

giving a player an option of making a payment representative of a five card wager and a seven card wager;

causing a video screen of the gaming machine to provide initial image of five cards face up;

said player causing said video screen to replace any of said initial images with images of cards that are face up, thereby providing an image of a five card Draw Poker hand;

making a [five card] Draw Poker payout to said player based upon the rank of said [five card] Draw Poker hand, whereby said player's five card wager is settled;

providing images of two additional cards face up, thereby providing an image of a seven card Stud Poker hand; and

making a seven card Stud Poker payout to said player based upon a rank of five cards of said [seven card] Stud Poker hand, whereby said player's seven card wager is settled.

REMARKS

Claims 1-20 are rejected. Claims 17 and 19 have been amended. Claims 1-16, Claim 17(amended), Claim 18, Claim 19(amended) and Claim 20 remain in the case.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Lo. Claim 1, in part calls for:

"dealing cards to a player;...
dealing out community cards;
providing an opportunity for a player to
make a wager on a rank of a Poker hand formed
from said dealt cards augmented by said
community cards;..."

There is nothing mentioned in Lo about community cards. Moreover, the office action alleges that Lo provides "... an opportunity to make a wager based on cards dealt and the community cards." Even if this were true, it is vastly different from "providing an opportunity for a player to make a wager on a rank of a Poker hand formed from said dealt cards augmented by said community cards" as called for in Claim 1. (underlining added) For reasons given hereinbefore, Claim 1 is allowable over the ground of rejection whereby allowance thereof is hereby requested.

Claims 17 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by The Poker Page reference to the game, 357.

The gist of Claim 17 (amended) is a video poker game where a player has an option of "making a payment representative of a three card wager, a five card wager and a seven card wager;.. " A video image is provided of seven cards face down. Thereafter, video images are provided of cards that are turned up and exchanged and the wagers are settled. It should be understood that Claim 17 is not related to any game where cards are actually dealt and one player plays against another player.

For 357 The Poker Page reference provides a folksy description of a game where there are a plurality of players that play against each other. For a first round of play, threes are wild and three cards are dealt to each player. All the dealt cards are shown, the player with the highest three card hand wins the pot and losing players match the pot. Between rounds of play, non-participants "annie up". For a second round of play, fives are wild and two additional cards are dealt to each player. The player with the highest five card hand wins the pot and losing players match the pot. For a third round of play, sevens are wild and two additional cards are dealt to each player.

Claim 17 (amended) and Claim 18 are unrelated to what is disclosed in 357. Hence, claim 17(amended) and claim 18 are allowable over the ground of rejection.

Claims 2-6, and 8-16 are rejected under 35 U.S.C. as being unpatentable over Lo in view of 357. In the rejection, it is

stated that "..."[r]eferring to claim 4, Lo in view of 357 does not disclose that the community cards are dealt face down....". It is further stated that "[r]eferring to claim 5, Lo in view of 357 does not disclose that the community cards are dealt face up..." . Since, according to the office action, Lo in view of 357 does not disclose that community cards are either dealt face down or face up, it suggests that Lo in view of 357 does not disclose community cards. Applicant could not find any mention of community cards in either 357 or Lo.

In a rejection of Claims 2-3 and 8-9, the office action states that "...Lo discloses a method wherein the player is dealt three cards and 4 community cards to create a seven card poker hand..." It should be understood that in a card game community cards are for utilization by all players. To say that community cards are dealt to a player is a non sequitur.

Because the office action alleges that community cards are neither dealt face up nor face down and are dealt to a player, it is impossible to hazard a guess what the office action means when it refers to community cards. The office action goes on to allege advantages of a game with community cards. Since there is no mention of community cards in Lo and 357 and it is impossible to hazard a guess what the office action means when it refers to community cards, the advantages of community cards alleged in the office action is irrelevant.

Since Claim 2 calls for using community cards which are not disclosed by Lo and because Claim 2 depends from Claim 1 which has been shown to be allowable, Claim 2 is allowable.

Claim 3 calls for

"...making a three card payout to said player based upon a rank of said three card poker hand;...

It should be understood that Lo only makes a payout to a player based upon a rank of a five card poker hand. (column 3, lines 12-13, 24, 32-33, 41, 49, column 4, lines 4-5, 13, column 6 lines 19-20, 38, 47, column 7 lines 2, 10) Since Claim 3 includes making a three card payout based upon a rank of a three card poker hand and because Claim 3 depends from Claim 1 which has been shown to be allowable, Claim 3 is allowable.

Claims 4 and 5 call for dealing community cards face down and face up, respectively. Since the cited references do not disclose community cards and because Claims 4 and 5 depend from Claim 1, Claims 4 and 5 are allowable.

The office action states that Lo discloses "...a bonus payout to the player based upon a poker hand being higher than a known rank...", thereby providing a basis for rejecting Claims 7, 13 and 16. Lo states that "A Player's Bonus Bet wager wins if..." (column 7, line 9) In other words, a bonus payout in Lo is predicated upon the player making a bonus wager. Therefore

the statement in the office action regarding the bonus payout is incomplete to the point of being incorrect. A correct statement is that Lo discloses "...a bonus payout to the player who makes a bonus wager based upon a poker hand being higher than a known rank..." A bonus payout in Claims 7, 13 and 16 is not predicated upon the player making a bonus wager. Therefore, Claims 7, 13 and 16 are allowable.

Claim 10, depends from claim 8 which calls for two community cards being dealt face down. Claim 10 calls for "permitting said player to increase said seven card Stud Poker wager prior to either of said community cards being turned face up." The office action alleges that "...it is well known in the art (seven card stud poker) that each card flipped over generates an additional betting round." It should be understood that cards in seven card stud poker are not "flipped over"; they are dealt. Moreover, Lo and 357 do not disclose community cards that can be "flipped over". For reasons given hereinbefore and because Claim 10 depends from Claim 1, Claim 10 is allowable over the ground of rejection.

The office action additionally alleges that "...Lo in view of 357 discloses that a player can rescind the seven card wager upon forfeiture of a portion of the seven card wager" provides a basis for rejecting Claim 11. There is no provision in either Lo or 357 for rescinding the seven card wager. Therefore, Claim

11 is allowable.

It should be understood that claims 2-6 and 8-16 depend from claim 1 which calls for "providing an opportunity for a player to make a wager on a rank of a poker hand formed from...dealt cards augmented by community cards;"

In support of a rejection of Claim 14 Lo is alleged in the office action to provide community cards to a player. As stated hereinbefore, in a card game community cards are not provided to a player. Moreover, Lo does not provide any community cards. The office action further alleges that "357 discloses wagering and paying out based on a three card poker hand." Unlike 357, what Claim 14 calls for is "making a three card payout to said player based upon the rank of said three card hand;" (underlining added) 357 makes no payout based upon rank of any hand. The office action further alleges that "[o]ne would be motivated to combine the references to accommodate 8 or more players..." Since the combination of Lo and 357 would not make a payout based upon rank of the three card hand and the combination and would require more than a standard deck of cards, the combining does not support the rejection. Additionally, the combining of the references is not suggested by the references. If it is suggested at all, it is suggested by applicant's disclosure. In other words, the combination is motivated by hindsight. Accordingly, claim 14 is allowable over the ground of rejection.

Claim 15 calls for using a joker as a wild card. Since claim 15 depends from claim 14 which has been shown to be allowable, claim 15 is allowable over the ground of rejection.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weingardt in view of Jones. Weingardt discloses a poker game where a player has an option of playing either a five, a six or a seven card poker hand. More particularly, the player may choose to convert the five card poker hand to the six card poker hand by adding one additional card. The player may convert the six card poker hand to a seven card poker hand by adding another additional card.

It should be understood that the five card poker hand is drawn from one standard deck of cards and the additional cards are drawn from at least one other deck of cards. However, in Weingardt there is only one payout no matter how many conversions are performed.

Jones discloses a poker game that has two jackpot components. When a player receives five cards that form a qualifying predetermined arrangement, such as a royal flush, the player is eligible to participate in one jackpot component of the game. The player may become eligible for another jackpot component after cards are drawn. The player receives a separate payout for winning a jackpot component as well as a payout for winning an underlying poker component of the game.

Unlike Weingardt, in Claim 19 all images of cards are selected from images of cards of one standard deck.

Unlike Jones, in Claim 19 there are no jackpot components. The player has an option of making a five card wager and a seven card wager. The player receives a five card hand comprised of images of five cards. The player has an option of exchanging images of any of the five cards thereby forming a Draw poker hand. The images of the Draw Poker hand is augmented by images of two additional cards to form a seven card Stud Poker hand. A Draw Poker payout is made to the player based upon the rank of the Draw Poker hand. A Stud Poker payout is made to the player based upon the rank of five cards of the Stud Poker hand. Since all payouts are in accordance with the rank of either a Draw Poker hand or the rank of five cards of a Stud Poker hand without a qualification for a jackpot, Claim 19 is unlike Jones.

For reasons given hereinbefore, Claim 19 is allowable over the ground of rejection. Since Claim 20 depends from claim 19, it is also allowable.

Since Claims 1-16, Claim 17(amended), Claim 18, Claim 19(amended) and Claim 20 have been shown to be allowable, reconsideration of Claims 1-16, 18 and 20, reexamination of Claim 17(amended) and Claim 19(amended) and an early allowance thereof

is hereby requested.

Respectfully Submitted,


Leonard Weiss